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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,658	06/15/2001	John Funk	26372-00001	6965

7590 05/25/2005

GIBSON, DUNN & CRUTCHER LLP
Suite 4100
1801 California Street
Denver, CO 80202-2641

EXAMINER

HARRELL, ROBERT B

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,658

Applicant(s)

FUNK ET AL.

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7-9, 11, 13-15, 17, 19-21, 23, 25-27, 29, 31-33 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-9, 11, 13-15, 17, 19-21, 23, 25-27, 29, 31-33 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached Office Action</u> |

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1. Claims 1, 2, 3, 5, 7, 8, 9, 11, 13, 14, 15, 17, 19, 20, 21, 23, 25, 26, 27, 29, 31, 32, 33, and 35 are presented for examination.

2. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks TM, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims. Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

3. The following is a quotation of the second paragraph of 35 U.S.C 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, 3, 5, 7, 8, 9, 11, 13, 14, 15, 17, 19, 20, 21, 23, 25, 26, 27, 29, 31, 32, 33, and 35 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The scope of meaning of the following claim language is not clear:

- a) "each said file"—claims 1, 7, 13, 19, 25, 31["each" implies many but only one file, "stored in a file", has been mentioned*];
- b) "said file names" —claims 1, 7 and 19.

5. As to 4 (a) above, these are but a few examples of numerous cases where clear antecedent bases are lacking and not an exhausting recital. Any other term(s) or phrase(s) over looked by examiner and not listed above which start with either "the" or "said" and do not have a single proper antecedent bases also is indefinite for the reasons outlined in this paragraph. Also, these are but a few examples where term(s) or phrase(s) are introduced more than once without adequate use of either "the" or "said" for the subsequent use of the term(s) or phrase(s). Moreover, multiple introduction of a term, or changes in tense, results in a lack of clear antecedent bases for term(s) or phrase(s) which relied upon the introduced term. Failure to correct all existing cases where clear antecedent bases are lacking can be viewed as non-responsive. Nonetheless, should a response yield all claims allowable short *a few* cases where clear antecedent bases are lacking within the claims, a preemptive authorization to enter an examiner's amendment to the record to correct such would accelerate a notice of allowance over a final rejection. Such could be added at the end of an applicant's response with the following statement: "Examiner is hereby authorized, without the need of further contact by examiner, to enter an Examiner's Amendment to correct any cases where antecedent bases are lacking." if the applicant so elects. This does not diminish the applicant's requirement to correct all such cases not so listed in the example few given above nor prohibit any amendments after a notice of allowance by the applicant.

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. The applicant's remarks with respect to the claims as rejected under 35 U.S.C. 102(b) have been fully considered by deemed moot in view of the following new grounds of rejection.

8. Claims 1, 2, 3, 5, 7, 8, 9, 11, 13, 14, 15, 17, 19, 20, 21, 23, 25, 26, 27, 29, 31, 32, 33, and 35 rejected under 35 U.S.C. 102 (b) as being anticipated by J. Postel "Out-of-Net Host Addresses for Mail" (6 April 1979).

9. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions. Also, citation to page numbers are based on the page number in brackets (i.e. [page 1] and not Page 1 of X so indicated on the top right corner of each sheet.

9. Per claim 1, J. Postel taught a method for processing two or more email messages (i.e., page 1) for transmission to one or more recipients (e.g., see page 1), comprising the steps of:

a) identifying from at least one database a set of attributes for the email messages (e.g., see page 2 "[---].XXX@YYY", also see page 3 "STRUCTURED NAMES");

b) establishing a transmission criteria for selecting email messages for transmission based on said set of attributes for the email messages (e.g., see page 2 "Messages are transmitted as a character string to an address");

c) determining at least one attribute to assign to each of the email messages selected from said set of attributes (e.g., see page 2 "SINGLE MAILBOX" as an example);

d) organizing the email messages according to said at least one attribute assigned to each the email messages (e.g., see page 2, mail for a specific person was organized into a single mailbox or outgoing mail box);

e) storing said organized email messages on a shared storage device (i.e., disk or memory of the sending mail server) so that each of the email messages is stored in a file that contains only email messages with a same said at least one attribute, wherein each said file has a file name that indicates a one or more of said at least one attribute for the email messages in said file name (e.g., see page 2 "sever would naturally put all the mail for this mailbox into a single file"); and,

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f) selecting said organized email messages by said file name from a single queue (i.e., directory on the mail server's disk or memory) in said shared storage device for transmission according to said transmission criteria (i.e., see page 4 last three paragraphs for "FWDR" and page 8 (last two paragraphs) as examples).

10. As can be seen, Postel taught "batching mail" which was also well known in FIDOnet, POP3, and the like where multiple emails for multiple users to multiple different machines for different diverse locations were placed into a single file and placing one or more of such files into a directory/folder (i.e., queue, outbox, exc...) for outbound destination routing once connection was established; such is "store-and-forward".

11. Per claims 2 and 3, each are drafted as an "or" condition of which "destination address" was covered by Postel on page 2 which was of a specific format. It should be noted that "batched mail" were routed based upon things such as time, system, disk, memory, outbox size, and/or link load, and the like.

12. Per claim 5, things are finite and thus setting the file to a size/number of mail messages was anticipated for disk, or memory, management

13. Per claims 7, 8, 9, 11, 13, 14, 15, 17, 19, 20, 21, 23, 25, 26, 27, 29, 31, 32, 33, and 35, these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above. However, the selector was the operating system, software, and Postel anticipated a processor in the computers disclosed.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (571) 272-3896. The fax phone number for all papers is (703) 872-9306.

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18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

A handwritten signature in black ink, appearing to read 'R. Harrell', with a long horizontal stroke extending to the right.

ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142